

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appellants:	Daniel N. CRIPE et al.	§	Confirmation No.:	8712
Serial No.:	10/717,730	§	Group Art Unit:	2416
Filed:	11/20/2003	§	Examiner:	P. Sinkantarakorn
For:	Method And System Of Teamed Network Adapters With Offloaded Connections	§	Docket No.:	200313587-1

REPLY BRIEF

Mail Stop Appeal Brief – Patents
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Date: January 22, 2010

Sir:

Appellants have received the Examiner's Answer dated December 24, 2009. Appellants offer the following comments in response.

In the Appeal Brief dated September 29, 2009, Appellants requested that the Board kindly focus on the aspect of causation when comparing the claims to the art of record. Appeal Brief, p. 16, ll. 8-10. Appellants' arguments in that Appeal Brief largely focused on this causation aspect.

Consequently, when Appellants received the Examiner's Answer, Appellants reviewed the Answer to determine whether the Examiner had demonstrated where Burns teaches the contested limitation, "wherein a program executing on the CPU reloads an offloaded connection established by the first network adapter onto the second network adapter as a result of one of a plurality of packets associated with the offloaded connection being received on the second network adapter" (emphasis added). In other words, Appellants reviewed the Answer to determine whether the Examiner had shown where Burns taught the causation aspect required by the claims.

As in previous rejections, however, the Examiner again fails to demonstrate where Burns or any other art of record teaches or even suggests such a limitation and, in particular, the causation aspect of this limitation. On page 13 of the Answer, the Examiner argues, in summary, that: port 1 is used for receipt and port 2 is used for transmission; port 1 fails; port 2 is used for both receipt and transmission; and, to ensure that port 2 keeps its status as a transmitter, the MAC source address in the Transmit Control Block (TCB) is changed from MAC address C to MAC address A. Based on these arguments, the Examiner concludes in the last paragraph of p. 13 that

the original cause of the updating of the TCB for TCP connection occurs is the failure of port 1, where the failure of port 1 results in port 2 receiving packets associated with the offloaded connection of port 1 . . . [a]nd, as a result of the failure of port 1 and port 2 receiving packets associated with the offloaded connection of port 1, Burns teaches [that] the step 406 [of Figure 4] of updating the TCB for TCP connection by changing the MAC source address to be the MAC address of port 2 occurs.

The Examiner also argues that step 406 occurs as a result of steps 401-405 occurring and that step 406 would not occur but for the occurrence of steps 401-405.

The Examiner appears to be at least partially correct that the original cause of the updating of the TCB for TCP connection is the failure of port 1. The Examiner also appears to be at least partially correct that the failure of port 1 results in port 2 receiving packets associated with the offloaded connection of port 1. However, the Examiner certainly errs in stating that the MAC address swap occurs as a result of port 2 receiving packets intended for port 1. The mere fact that a) port 2 receives packets intended for port 1 and that b) a MAC address swap occurs does not logically mean that b) occurs as a result of a). Although the Examiner persists in making this argument, Burns does not teach this type of causation, which is required to render the claims obvious.

The Examiner's argument regarding steps 401-405 of Figure 4 causing step 406 is irrelevant, because none of the steps 401-405 teaches receipt of a

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packet on port 2 that was originally intended for port 1, as claimed. If none of the steps 401-405 teaches this concept, then whether they cause step 406 to occur or not is moot.

It is believed that no extensions of time or fees are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 C.F.R. § 1.136(a), and any fees required (including fees for net addition of claims) are hereby authorized to be charged to Hewlett-Packard Development Company's Deposit Account No. 08-2025.

Respectfully submitted,

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